

AMENDED IN ASSEMBLY MAY 12, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2733

Introduced by Assembly Member Ruskin

February 19, 2010

An act to amend Sections 22971 22973.1, 22977.2, 22979, 22980.2, and 22980.3 of, and to add Sections ~~22980.4~~ 22971.5, 22980.4, and 22980.5 to, the Business and Professions Code, relating to cigarette and tobacco products.

LEGISLATIVE COUNSEL'S DIGEST

AB 2733, as amended, Ruskin. Cigarettes and tobacco products.

Existing law, the California Cigarette and Tobacco Products Licensing Act of 2003, provides for the licensure by the State Board of Equalization of manufacturers, distributors, wholesalers, importers, and retailers of cigarette or tobacco products that are engaged in business in California. The act prohibits retailers, manufacturers, distributors, and wholesalers from distributing or selling those cigarette and tobacco products unless they are licensed. The act authorizes the board to suspend or revoke the license of any manufacturer, distributor, wholesaler, importer, or retailer of tobacco products that is in violation of the act's provisions. Violation of the act is a misdemeanor.

This bill would, among other things, prohibit the transfer of title or possession of cigarettes or tobacco products without consideration, exchange, or barter if the cigarettes or tobacco products had been purchased for resale under a license issued pursuant to the act and the transfer occurs ~~without a license or during the suspension or after receipt of a notice of suspension or revocation of the license~~. It would also prohibit specified displays of cigarettes or tobacco products. It would

impose prescribed notices to be posted when a license has been suspended or revoked by the board, and would make violation of these posting requirements subject to a civil penalty. By adding a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 22971 of the Business and Professions
2 Code is amended to read:

3 22971. For purposes of this division, the following terms shall
4 have the following meanings:

5 (a) “Board” means the State Board of Equalization.

6 ~~(b) “Importer” means an importer as defined in Section 30019~~
7 ~~of the Revenue and Taxation Code.~~

8 (b) “Brand family” has the same meaning as that term is defined
9 in paragraph (2) of subdivision (a) of Section 30165.1 of the
10 Revenue and Taxation Code.

11 (c) “Cigarette” means a cigarette as defined in Section 30003
12 of the Revenue and Taxation Code.

13 (d) (1) “Control” or “controlling” means possession, direct
14 or indirect, of the power:

15 (A) To vote 25 percent or more of any class of the voting
16 securities issued by a person.

17 (B) To direct or cause the direction of the management and
18 policies of a person, whether through the ownership of voting
19 securities, by contract, other than a commercial contract for goods
20 or nonmanagement services, or otherwise provided; however, no
21 individual shall be deemed to control a person solely on account
22 of being a director, officer, or employee of that person.

23 (2) For purposes of subparagraph (B) of paragraph (1), a
24 person who, directly or indirectly, owns, controls, holds, with the
25 power to vote, or holds proxies representing 10 percent or more

1 *of the then outstanding voting securities issued by another person,*
2 *is presumed to control that other person.*

3 (3) *For purposes of this division, the board may determine*
4 *whether a person in fact controls another person.*

5 (e) *“Display for sale” means the placement of cigarettes or*
6 *tobacco products in a vending machine or in retail stock for the*
7 *purpose of selling or gifting the cigarettes or tobacco products.*
8 *For purposes of this definition, the clear and easily visible display*
9 *of cigarettes or tobacco products shall create a rebuttable*
10 *presumption that either were displayed for sale.*

11 ~~(d)~~
12 (f) *“Distributor” means a distributor as defined in Section 30011*
13 *of the Revenue and Taxation Code.*

14 (g) *“Gifting” means any transfer of title or possession without*
15 *consideration, exchange, or barter, in any manner or by any means,*
16 *of cigarettes or tobacco products that have been purchased for*
17 *resale under a license issued pursuant to this division if the transfer*
18 *occurs while the license is suspended or after the effective date of*
19 *its revocation.*

20 (h) *“Importer” means an importer as defined in Section 30019*
21 *of the Revenue and Taxation Code.*

22 ~~(e)~~
23 (i) *“Law enforcement agency” means a sheriff, a police*
24 *department, or a city, county, or city and county agency or*
25 *department designated by the governing body of that agency to*
26 *enforce this chapter or to enforce local smoking and tobacco*
27 *ordinances and regulations.*

28 ~~(f)~~
29 (j) *“License” means a license issued by the board pursuant to*
30 *this division.*

31 ~~(g)~~
32 (k) *“Licensee” means any person holding a license issued by*
33 *the board pursuant to this division.*

34 ~~(h)~~
35 (l) *“Manufacturer” means a manufacturer of cigarettes or*
36 *tobacco products sold in this state.*

37 ~~(i)~~
38 (m) *“Notice” or “notification” means, unless as otherwise*
39 *provided, the written notice or notification provided to a licensee*
40 *by the board by either actual delivery to the licensee or by*

1 first-class mail addressed to the licensee at the address on the
2 license.

3 ~~(j)~~

4 (n) “Package of cigarettes” means a package as defined in
5 Section 30015 of the Revenue and Taxation Code.

6 ~~(k)~~

7 (o) “Person” means a person as defined in Section 30010 of the
8 Revenue and Taxation Code.

9 ~~(t)~~

10 (p) “Retailer” means a person who engages in this state in the
11 sale of cigarettes or tobacco products directly to the public from
12 a retail location. Retailer includes a person who operates vending
13 machines from which cigarettes or tobacco products are sold in
14 this state.

15 ~~(m)~~

16 (q) “Retail location” means both of the following:

17 (1) Any building from which cigarettes or tobacco products are
18 sold at retail.

19 (2) A vending machine.

20 ~~(n)~~

21 (r) “Sale” or “sold” means a sale as defined in Section 30006
22 of the Revenue and Taxation Code.

23 ~~(o)~~

24 (s) “Tobacco products” means tobacco products as defined in
25 subdivision (b) of Section 30121 and subdivision (b) of Section
26 30131.1 of the Revenue and Taxation Code.

27 ~~(p)~~

28 (t) “Unstamped package of cigarettes” means a package of
29 cigarettes that does not bear a tax stamp as required under Part 13
30 (commencing with Section 30001) of Division 2 of the Revenue
31 and Taxation Code, including a package of cigarettes that bears a
32 tax stamp of another state or taxing jurisdiction, a package of
33 cigarettes that bears a counterfeit tax stamp, or a stamped or
34 unstamped package of cigarettes that is marked “Not for sale in
35 the United States.”

36 ~~(q) (1) “Control” or “controlling” means possession, direct or~~
37 ~~indirect, of the power:~~

38 ~~(A) To vote 25 percent or more of any class of the voting~~
39 ~~securities issued by a person.~~

~~(B) To direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract (other than a commercial contract for goods or nonmanagement services), or otherwise provided; however, no individual shall be deemed to control a person solely on account of being a director, officer, or employee of such person.~~

~~(2) For purposes of subparagraph (B) of this subdivision, a person who, directly or indirectly, owns, controls, holds, with the power to vote, or holds proxies representing 10 percent or more of the then outstanding voting securities issued by another person, is presumed to control such other person.~~

~~(3) For purposes of this division, the board may determine whether a person in fact controls another person.~~

~~(r) "Brand family" has the same meaning as that term is defined in paragraph (2) of subdivision (a) of Section 30165.1 of the Revenue and Taxation Code.~~

~~(s)~~

~~(u) "Wholesaler" means a wholesaler as defined in Section 30016 of the Revenue and Taxation Code.~~

SEC. 2. Section 22971.5 is added to the Business and Professions Code, to read:

22971.5. Any notice required by this division shall be served personally or by mail. If by mail, the notice shall be placed in a sealed envelope, with postage paid, addressed to the licensee at the address as it appears in the records of the board. The giving of notice shall be deemed complete at the time of deposit of the notice in the United States Post Office, or a mailbox, subpost office, substation or mail chute, or other facility regularly maintained or provided by the United States Postal Service, without extension of time for any reason. In lieu of mailing, a notice may be served personally by delivering to the person to be served and service shall be deemed complete at the time of delivery. Personal service to a corporation may be made by delivery of a notice to any person designated in the Code of Civil Procedure to be served for the corporation with summons and complaints in a civil action.

SEC. 3. Section 22973.1 of the Business and Professions Code is amended to read:

22973.1. (a) The board shall issue a license to a retailer upon receipt of a completed application and payment of the fees prescribed in Section 22973, unless any of the following apply:

1 (1) The retailer, or if the retailer is not an individual, any person
2 controlling the retailer, has previously been issued a license that
3 is suspended or revoked by the board for violation of any of the
4 provisions of this division.

5 (2) The application is for a license or renewal of a license for a
6 retail location that is the same retail location as that of a retailer
7 whose license was revoked or is subject to revocation proceedings
8 for violation of any of the provisions of this division, unless:

9 (A) It has been more than five years since a previous license
10 for the retail location was revoked.

11 (B) The person applying for the license provides the board with
12 documentation demonstrating that the applicant has acquired or is
13 acquiring the premises or business in an arm's length transaction.
14 For purposes of this section, an "arm's length transaction" is
15 defined as a sale in good faith and for valuable consideration that
16 reflects the fair market value in the open market between two
17 informed and willing parties, neither under any compulsion to
18 participate in the transaction. A sale between relatives, related
19 companies or partners, or a sale for the primary purpose of avoiding
20 the effect of the violations of this division that occurred at the retail
21 location, is presumed not to be made at "arm's length."

22 (3) The retailer, or if the retailer is not an individual, any person
23 controlling the retailer, has been convicted of a felony pursuant to
24 Section 30473 or 30480 of the Revenue and Taxation Code.

25 (4) The retailer does not possess all required permits or licenses
26 required under the Revenue and Taxation Code.

27 (b) (1) Any retailer who is denied a license may petition for a
28 redetermination of the board's denial of the license within 30 days
29 after service upon that retailer of the notice of the denial of the
30 license. If a petition for redetermination is not filed within the
31 30-day period, the determination of denial becomes final at the
32 expiration of the 30-day period.

33 (2) Every petition for redetermination shall be in writing and
34 shall state the specific grounds upon which the petition is founded.
35 The petition may be amended to state additional grounds at anytime
36 prior to the date on which the board issues its order or decision
37 upon the petition for redetermination.

38 (3) If the petition for redetermination is filed within the 30-day
39 period, the board shall reconsider the determination of the denial
40 and, if the retailer has so requested in the petition, shall grant the

1 retailer an oral hearing and shall give the retailer at least 10 days'
2 notice of the time and place of the hearing. The board may continue
3 the hearing from time to time as may be necessary.

4 (4) The order or decision of the board upon a petition for
5 redetermination becomes final 30 days after mailing of notice
6 thereof.

7 ~~(5) Any notice required by this subdivision shall be served~~
8 ~~personally or by mail. If by mail, the notice shall be placed in a~~
9 ~~sealed envelope, with postage paid, addressed to the retailer at the~~
10 ~~address as it appears in the records of the board. The giving of~~
11 ~~notice shall be deemed complete at the time of deposit of the notice~~
12 ~~in the United States Post Office, or a mailbox, subpost office,~~
13 ~~substation or mail chute or other facility regularly maintained or~~
14 ~~provided by the United States Postal Service, without extension~~
15 ~~of time for any reason. In lieu of mailing, a notice may be served~~
16 ~~personally by delivering to the person to be served and service~~
17 ~~shall be deemed complete at the time of such delivery. Personal~~
18 ~~service to a corporation may be made by delivery of a notice to~~
19 ~~any person designated in the Code of Civil Procedure to be served~~
20 ~~for the corporation with summons and complaint in a civil action.~~

21 *SEC. 4. Section 22977.2 of the Business and Professions Code*
22 *is amended to read:*

23 22977.2. (a) The board shall issue a license to a distributor or
24 a wholesaler upon receipt of a completed application and payment
25 of the fee prescribed in Section 22977.1, unless any of the
26 following apply:

27 (1) The distributor or the wholesaler, or if the distributor or the
28 wholesaler is not an individual, any person controlling the
29 distributor or the wholesaler, has previously been issued a license
30 that is suspended or revoked by the board for violation of any of
31 the provisions of this division.

32 (2) The application is for a license or renewal of a license for a
33 distributor or a wholesaler, whose license is revoked or revocation
34 is pending, unless:

35 (A) It has been more than five years since a distributor's or a
36 wholesaler's previous license was revoked.

37 (B) The person applying for the license provides the board with
38 documentation demonstrating that the applicant has acquired or is
39 acquiring the business in an arm's length transaction. For purposes
40 of this section, an "arm's length transaction" is defined as a sale

1 in good faith and for valuable consideration that reflects the fair
2 market value in the open market between two informed and willing
3 parties, neither under any compulsion to participate in the
4 transaction. A sale of the business between relatives, related
5 companies or partners, or a sale for the primary purpose of avoiding
6 the effect of the violations of state tobacco control laws that were
7 committed by the distributor or wholesaler is presumed not to be
8 made at “arm’s length.”

9 (3) The distributor or the wholesaler, or if the distributor or the
10 wholesaler is not an individual, any person controlling the
11 distributor or the wholesaler has been convicted of a felony
12 pursuant to Section 30473 or 30480 of the Revenue and Taxation
13 Code.

14 (b) (1) Any distributor or any wholesaler who is denied a license
15 may petition for a redetermination of the board’s denial of the
16 license within 30 days after service upon that distributor or that
17 wholesaler of the notice of the denial of the license. If a petition
18 for redetermination is not filed within the 30-day period, the
19 determination of denial becomes final at the expiration of the
20 30-day period.

21 (2) Every petition for redetermination shall be in writing and
22 shall state the specific grounds upon which the petition is founded.
23 The petition may be amended to state additional grounds at anytime
24 prior to the date on which the board issues its order or decision
25 upon the petition for redetermination.

26 (3) If the petition for redetermination is filed within the 30-day
27 period, the board shall reconsider the determination of the denial
28 and, if the distributor or the wholesaler has so requested in the
29 petition, shall grant the distributor or wholesaler an oral hearing
30 and shall give the distributor or the wholesaler at least 10 days’
31 notice of the time and place of the hearing. The board may continue
32 the hearing from time to time as may be necessary.

33 (4) The order or decision of the board upon a petition for
34 redetermination becomes final 30 days after mailing of notice
35 thereof.

36 ~~(5) Any notice required by this subdivision shall be served~~
37 ~~personally or by mail. If by mail, the notice shall be placed in a~~
38 ~~sealed envelope, with postage paid, addressed to the distributor or~~
39 ~~the wholesaler at the address as it appears in the records of the~~
40 ~~board. The giving of notice shall be deemed complete at the time~~

1 of deposit of the notice in the United States Post Office, or a
2 mailbox, subpost office, substation or mail chute or other facility
3 regularly maintained or provided by the United States Postal
4 Service, without extension of time for any reason. In lieu of
5 mailing, a notice may be served personally by delivering to the
6 person to be served and service shall be deemed complete at the
7 time of such delivery. Personal service to a corporation may be
8 made by delivery of a notice to any person designated in the Code
9 of Civil Procedure to be served for the corporation with summons
10 and complaint in a civil action.

11 *SEC. 5. Section 22979 of the Business and Professions Code*
12 *is amended to read:*

13 ~~22979. (a) Commencing on January 1, 2004, every~~ Every
14 manufacturer and every importer, as defined in subdivision (b) of
15 ~~Section 22971~~, shall obtain and maintain a license to engage in
16 the sale of cigarettes. In order to be eligible for obtaining and
17 maintaining a license under this division, a manufacturer or
18 importer shall do all of the following in the manner specified by
19 the board:

20 (1) Submit to the board a list of all brand families that they
21 manufacture or import.

22 (2) Update the list of all brand families that they manufacture
23 or import whenever a new or additional brand is manufactured or
24 imported, or a listed brand is no longer manufactured or imported.

25 (3) Consent to jurisdiction of the California courts for the
26 purpose of enforcement of this division and appoint a registered
27 agent for service of process in this state and identify the registered
28 agent to the board.

29 (b) In order to be eligible for obtaining and maintaining a license
30 under this division, a manufacturer or importer that is a “tobacco
31 product manufacturer” in subdivision (i) of Section 104556 of the
32 Health and Safety Code, shall do all of the following in the manner
33 specified by the board:

34 (1) Certify to the board that it is a “participating manufacturer”
35 as defined in subsection II(jj) of the “Master Settlement
36 Agreement” (MSA), or is in full compliance with paragraph (2)
37 of subdivision (a) of Section 104557 of the Health and Safety
38 Code. Any person who makes a certification pursuant to this
39 subdivision that asserts the truth of any material matter that he or
40 she knows to be false is guilty of a misdemeanor punishable by

1 imprisonment of up to one year in the county jail, or a fine of not
2 more than one thousand dollars (\$1,000), or both the imprisonment
3 and the fine.

4 (2) Submit to the board a list of all brand families that fit under
5 the category applicable to the manufacturer or importer, in
6 accordance with the following:

7 (A) Brand families that are to be counted, in the unit volume
8 and market shares determined pursuant to subsections II(z) and
9 II(mm) of the MSA and Exhibit E thereto, in calculating the
10 manufacturer's annual payments under the MSA.

11 (B) Brand families that are to be counted in calculating the
12 manufacturer's escrow deposits under paragraph (2) of subdivision
13 (a) of Section 104557 of the Health and Safety Code.

14 (C) The manufacturer or importer shall update the list whenever
15 a new or additional brand is manufactured or imported or a listed
16 brand is no longer manufactured or imported.

17 (c) The board may not grant or permit the maintenance of a
18 license to any manufacturer or an importer of cigarettes that does
19 not affirmatively certify, both at the time the license is granted and
20 annually thereafter, that all packages of cigarettes manufactured
21 or imported by that person and distributed in this state fully comply
22 with subdivision (b) of Section 30163 of the Revenue and Taxation
23 Code, and that the cigarettes contained in those packages are the
24 subject of filed reports that fully comply with all requirements of
25 the federal Cigarette Labeling and Advertising Act (15 U.S.C. Sec.
26 1331 et seq.) for the reporting of ingredients added to cigarettes.
27 For purposes of the federal Cigarette Labeling and Advertising
28 Act requirement, cigars weighing three pounds or less per 1,000
29 are excluded from the definition of cigarette.

30 (d) A license issued to a manufacturer or an importer under this
31 division is only valid with respect to the manufacturer or importer
32 designated on the license and may not be transferred or assigned
33 to another manufacturer or importer.

34 (e) Any manufacturer or importer that is issued a license under
35 this division that does not commence business in the manner
36 specified or designated in the license, ceases to do business in the
37 manner specified or designated in the license, or is notified that
38 the license is suspended or revoked, shall immediately surrender
39 that license to the board.

1 (f) (1) Any manufacturer or any importer who is denied a
2 license may petition for a redetermination of the board's denial of
3 the license within 30 days after service upon that manufacturer or
4 that importer of the notice of the denial of the license. If a petition
5 for redetermination is not filed within the 30-day period, the
6 determination of denial becomes final at the expiration of the
7 30-day period.

8 (2) Every petition for redetermination shall be in writing and
9 shall state the specific grounds upon which the petition is founded.
10 The petition may be amended to state additional grounds at anytime
11 prior to the date on which the board issues its order or decision
12 upon the petition for redetermination.

13 (3) If the petition for redetermination is filed within the 30-day
14 period, the board shall reconsider the determination of the denial
15 and, if the manufacturer or the importer has so requested in the
16 petition, shall grant an oral hearing and shall give the manufacturer
17 or the importer at least 10 days' notice of the time and place of the
18 hearing. The board may continue the hearing from time to time as
19 may be necessary.

20 (4) The order or decision of the board upon a petition for
21 redetermination becomes final 30 days after mailing of notice
22 thereof.

23 ~~(5) Any notice required by this subdivision shall be served~~
24 ~~personally or by mail. If by mail, the notice shall be placed in a~~
25 ~~sealed envelope, with postage paid, addressed to the manufacturer~~
26 ~~or the importer at the address as it appears in the records of the~~
27 ~~board. The giving of notice shall be deemed complete at the time~~
28 ~~of deposit of the notice in the United States Post Office, or a~~
29 ~~mailbox, subpost office, substation or mail chute or other facility~~
30 ~~regularly maintained or provided by the United States Postal~~
31 ~~Service, without extension of time for any reason. In lieu of~~
32 ~~mailing, a notice may be served personally by delivering to the~~
33 ~~person to be served and service shall be deemed complete at the~~
34 ~~time of the delivery. Personal service to a corporation may be made~~
35 ~~by delivery of a notice to any person designated in the Code of~~
36 ~~Civil Procedure to be served for the corporation with summons~~
37 ~~and complaint in a civil action.~~

38 *SEC. 6. Section 22980.2 of the Business and Professions Code*
39 *is amended to read:*

1 22980.2. (a) A person or entity that engages in the business
2 of selling cigarettes or tobacco products in this state without a
3 ~~valid license or after a license has been suspended or revoked~~, and
4 each officer of any corporation that so engages in *this* business, is
5 guilty of a misdemeanor punishable as provided in Section 22981.

6 (b) Each day after notification by the board or by a law
7 enforcement agency that a manufacturer, wholesaler, distributor,
8 importer, retailer, or any other person required to be licensed under
9 ~~this act~~ *division* offers cigarette and tobacco products for sale or
10 exchange without a valid license for the location from which they
11 are offered for sale shall constitute a separate violation.

12 (c) Continued sales *or continued gifting* without a *valid* license
13 ~~or after a notification of suspension or revocation~~ shall constitute
14 ~~a violation of~~ *be subject to the penalty provided in* Section 22981,
15 and shall result in the seizure of all cigarettes and tobacco products
16 in the possession of the person by the board or a law enforcement
17 agency. Any cigarettes and tobacco products seized by the board
18 or by a law enforcement agency shall be deemed forfeited.

19 ~~SEC. 2.~~

20 *SEC. 7.* Section 22980.3 of the Business and Professions Code
21 is amended to read:

22 22980.3. (a) Licenses issued pursuant to this division shall be
23 subject to suspension or revocation for violations of this division
24 or the Revenue and Taxation Code as provided in this section.

25 (1) In addition to any applicable fines or penalties for a violation,
26 upon first conviction of a violation, a licensee shall receive a
27 written notice from the board detailing the suspension and
28 revocation provisions of this division. At its discretion, the board
29 may also suspend a license for up to 30 days.

30 (2) In addition to any applicable fines or penalties for a violation,
31 upon a second conviction of a violation within four years of a
32 previous violation the license shall be revoked.

33 (b) The date of the occurrence of a violation shall be used to
34 calculate the duration between subsequent violations. A violation
35 shall be noted in the license record at the board only after judicial
36 conviction or final adjudication of a violation. ~~Upon~~

37 (c) *Upon* updating a record for a violation triggering a
38 suspension, the board shall serve the licensee with a notice of
39 suspension and shall order the ~~licenseholder to cease the sale,~~
40 ~~transfer without consideration, exchange, or barter prohibited~~

1 ~~pursuant to Section 22980.4, and display for sale prohibited~~
2 ~~pursuant to Section 22980.4, licensee to cease the sale, gifting,~~
3 ~~and displaying for sale of cigarettes or tobacco products for the~~
4 ~~period of the suspension. The notice of suspension shall inform~~
5 ~~the licenseeholder licensee of the effective dates of the suspension.~~

6 (e)

7 ~~(d) Continued sales, transfers without consideration, exchange,~~
8 ~~or barter prohibited pursuant to Section 22980.4, or displays for~~
9 ~~sale prohibited pursuant to Section 22980.4 after the notification~~
10 ~~of Continued sales or gifting of cigarettes or tobacco products~~
11 ~~after the effective date of the suspension shall result in the~~
12 ~~revocation of a license.~~

13 (d)

14 (e) Upon completion of a suspension period, a license shall be
15 reinstated by the board upon certification that all outstanding debts
16 of that retailer or wholesaler that are owed to a wholesaler or
17 distributor for the purchase of cigarette and tobacco products are
18 paid.

19 (e)

20 (f) Upon updating a record for a violation triggering a
21 revocation, the board shall serve the licensee with a notice of
22 revocation and shall order the licenseeholder licensee to cease the
23 sale, transfer without consideration, exchange, or barter prohibited
24 pursuant to Section 22980.4, and displays for sale prohibited
25 pursuant to Section 22980.4 gifting, and displaying for sale of
26 cigarettes or tobacco products on and after the effective date of
27 the revocation. After The notice of revocation shall inform the
28 licensee of the effective date of the revocation.

29 (g) After a revocation, a previously licensed applicant may apply
30 for a new license after six months. The board may, at its discretion,
31 issue a new license.

32 (f)

33 (h) Upon updating a license record for a violation, suspension,
34 or revocation to a license of a person or entity that owns or controls
35 more than one location, the board shall send notice in writing of
36 the violations, suspensions, or revocations within 15 days of the
37 board's action to the address included in the application and listed
38 on the license for receipt of correspondence or notices from the
39 board.

40 (g)

(i) Upon suspension or revocation of a license pursuant to this section, the board shall notify all licensed distributors and wholesalers by electronic mail within 48 hours of the suspension or revocation of that license. All licensed distributors and wholesalers shall provide the board and shall update, as necessary, an electronic mail address that the board can use for purposes of making the notifications required by this subdivision.

~~(h)~~

(j) Violations by a licensee at one location may not be accumulated against other locations of that same licensee. Violations accumulated against a prior owner at a licensed location may not be accumulated against a new owner at the same licensed location.

~~(i)~~

(k) For purposes of this section, a violation includes violations of the Revenue and Taxation Code relating to cigarettes and tobacco products, and violations of this division. Only one violation per discrete action shall be counted towards a suspension or revocation of a license.

~~SEC. 3.~~

SEC. 8. Section 22980.4 is added to the Business and Professions Code, to read:

~~22980.4. (a) (1) A person or entity that purchases cigarettes or tobacco products for resale under a license issued pursuant to this division and then transfers, in any manner or by any means, title or possession of cigarettes or tobacco products without consideration, exchange, or barter is guilty of a misdemeanor punishable as provided in Section 22981 if the transfer occurs without a license issued pursuant to this division or after receipt of a notice of suspension or revocation of the license.~~

~~(2) Continued transfers prohibited pursuant to this subdivision shall constitute a violation punishable as provided in Section 22981 and shall result in the seizure of all cigarettes and tobacco products in the possession of the person by the board or a law enforcement agency. Any cigarettes and tobacco products seized by the board or by a law enforcement agency shall be deemed forfeited.~~

~~(b) A person or entity that, after receiving a notice of suspension, continues to display for the purpose of selling or transferring without consideration, exchange, or barter cigarettes or tobacco products by placing the cigarettes or tobacco products in a vending~~

1 machine or in retail stock so that the cigarettes or tobacco products
2 are clearly and easily visible is subject, notwithstanding Section
3 22981, to a civil penalty of one thousand dollars (\$1,000) for each
4 offense. For purposes of this subdivision, a rebuttable presumption
5 shall be established that cigarettes or tobacco products that are
6 clearly and easily visible in retail stock are displayed for the
7 purpose of selling the cigarettes or tobacco products.

8 22980.4. A person who, after receiving a notice of suspension
9 or revocation, continues to display for sale cigarettes or tobacco
10 products shall be subject to a civil penalty of one thousand dollars
11 (\$1,000) for each offense. A violation of this section shall not be
12 subject to Section 22981.

13 ~~SEC. 4.~~

14 SEC. 9. Section 22980.5 is added to the Business and
15 Professions Code, to read:

16 22980.5. (a) A ~~licensee~~ *retailer* whose license has been
17 suspended or revoked by order of the board shall conspicuously
18 post a notice at both of the following locations:

19 (1) Each public entrance to the retail location. The notice shall
20 directly face any person who enters the retail location and shall
21 not be obstructed from view or placed at a height of less than four
22 feet or greater than nine feet from the floor.

23 (2) Each cash register and other point of retail sale. The notice
24 shall be posted so as to be readily viewable by a person standing
25 at or approaching the cash register or other point of retail sale. The
26 notice shall directly face the purchaser and shall not be obstructed
27 from view or placed at a height of less than four feet or greater
28 than nine feet from the floor.

29 (b) The notices described in this section shall be in the size and
30 form prescribed by the board. The notice shall be provided by the
31 board and may be reproduced in the same size and form *in order*
32 *to* comply with subdivision (a).

33 (c) A ~~licensee~~ *retailer* whose license was suspended shall post
34 the notice at the retail location that was the subject of the
35 suspension for the duration of the suspension.

36 (d) A ~~licensee~~ *retailer* whose license was revoked shall post the
37 notice at the retail location that was the subject of the revocation
38 for a 30-day period from the effective date of the revocation.

39 (e) Every ~~licensee~~ *retailer* who fails to post the notices as
40 required by this section, who alters the notice provided by the

1 board, or who removes the notice before the posting period required
2 in subdivision (c) or (d), *as appropriate*, expires, shall be subject,
3 notwithstanding Section 22981, to a civil penalty of one thousand
4 dollars (\$1,000) for each offense.

5 ~~SEC. 5.~~

6 *SEC. 10.* No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 the only costs that may be incurred by a local agency or school
9 district will be incurred because this act creates a new crime or
10 infraction, eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section 17556 of
12 the Government Code, or changes the definition of a crime within
13 the meaning of Section 6 of Article XIII B of the California
14 Constitution.